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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/751,274   | 12/31/2003  | Antoni Kozlowski     | SHE0063.00          | 7476             |
| 21968  | 7590        | 03/27/2006           | EXAMINER            |                  |
| NEKTAR THERAPEUTICS<br>150 INDUSTRIAL ROAD<br>SAN CARLOS, CA 94070 |             |                      |                     | RABAGO, ROBERTO  |
|  |             | ART UNIT             |                     | PAPER NUMBER     |
|  |             | 1713                 |                     |                  |

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                   |                         |
|------------------------------|-----------------------------------|-------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b>            | <b>Applicant(s)</b>     |
|                              | 10/751,274                        | KOZLOWSKI ET AL.        |
|                              | <b>Examiner</b><br>Roberto Rábago | <b>Art Unit</b><br>1713 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 January 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-130 is/are pending in the application.
- 4a) Of the above claim(s) 1-104 and 109-130 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 105-108 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All . b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/27/06

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

***Election/Restrictions***

1. Applicant's election with traverse of Group III, claims 105-108, with election of species, in the reply filed on 1/10/2006 is acknowledged. The traversal is on the ground(s) that there is no search burden, citing the fact that each invention is assigned to the same class. This is not found persuasive because class 525 contains in excess of 110,000 documents. While not all of the documents in class 525 would need to be reviewed, each invention would require consideration of potentially thousands of documents, and the search for each separate invention is not required in the searches required for the others. Therefore, a search of all of the separate inventions could not be made without serious burden. The requirement is still deemed proper and is therefore made FINAL.

Following a search of the elected species, the remaining species are joined for examination.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 105-108 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The intended scope of "biologically active agent" cannot be determined. The discussion of "active agent" at page 25 is noted; however, the discussion is open-ended in view of the phrase "includes", and therefore this discussion cannot be considered to be a definition. Furthermore, it cannot be determined how the addition of "biological" to "active agent" is meant to narrow the discussion of the "active agent" discussed at page 25.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claim 105 is rejected under 35 U.S.C. 102(a) as being anticipated by Yamasaki et al. (WO03/000278).

The reference discloses modification of a polypeptide with a polyakylene glycol (abstract). Species within the claimed scope of polymers are disclosed at pages 80 and 91, and therefore the claimed conjugate is anticipated. Applicants' priority application has been reviewed, but it does not disclose the reference species.

***Information Disclosure Statement***

6. Foreign-language references cited on applicants' various IDS documents have been considered solely on the basis of accompanying portions which have been translated into English.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roberto Rábago  
Primary Examiner  
Art Unit 1713

RR  
March 17, 2006